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Paper No. 25

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In re Application of  
Cureton et al.  
Application No. 09/044,426  
Filed: March 19, 1998 (CPA filed 5/6/02)  
Attorney Docket No. 056179-5004-09

**OFFICE OF PETITIONS**

DECISION GRANTING PETITION  
UNDER 37 CFR 1.182

This is a decision on the petition filed December 11, 2003, requesting under 37 CFR 1.182 to amend the specification of the above-identified abandoned parent to the instant CPA to amend the claim for benefit under 35 U.S.C. § 120.

The petition is **granted**.

Petitioners request that their claim for benefit herein under 35 U.S.C. § 120 include prior application 08/705,620 ('620). Since the instant application, while filed after May 29, 2000, is a CPA, petitioners are exempted from having to proceed under all the provisions and requirements of 37 CFR 1.78. See 37 CFR 1.78(a)(2)(i). While petitioners have not, in the petition, specifically identified the relationship of the instant CPA application to the '620 application, or specifically requested § 120 benefit of any other application(s), inspection of the proffered amendment to the first line of the specification that was filed on the same date as the petition reveals that petitioners indicate the two aforementioned applications stand in a continuation relationship (notwithstanding overlapping but different inventive entities) and apparently also seek benefit of several earlier applications as well.

As section 120 of title 35 of the United States Code permits entry of a subsequent amendment in an abandoned application to include the benefit of an earlier filing date for purposes other than prosecution, the request can be favorably treated. See Sampson v. Commissioner, 195 USPQ 136 (D.D.C. 1976). It should be noted that the proffered amendment does not give the complete application number for each case (which consists of the series code and the serial number), and should be corrected See 37 CFR 1.5(a). A corrected filing receipt is enclosed that presumably lists the intended application numbers; applicants should carefully check this receipt for errors.

This application is being returned to Technology Center AU 3629.

Telephone inquiries related to this decision should be addressed to the undersigned at (703) 305-1820.

Brian Hearn  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

Enclosure: Corrected Filing Receipt